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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,381	04/09/2004	Tony M. Gutierrez	5418.3001.002	1602

7590

12/20/2005

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EXAMINER

MEISLIN, DEBRA S

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,381

Applicant(s)

GUTIERREZ, TONY M.

Examiner

Debra S. Meislin

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's argument, filed October 12, 2005, with respect to the "continuous ring band" in claim 1 has been fully considered and is persuasive. The rejection of claims 1-6 under 35 U.S.C. 102(b) as being clearly anticipated by Brinn has been withdrawn. In fairness to applicant, this Office action will be made non-final.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinn in view of Knutson, Mitchell or Rosenberger.

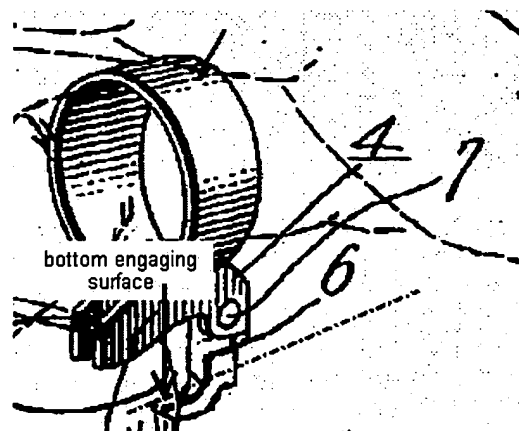
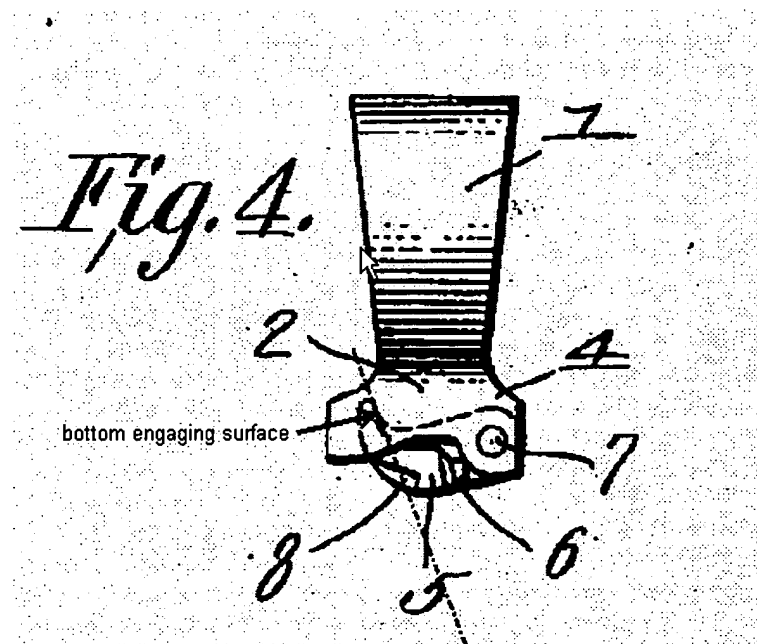
Brinn discloses all of the claimed subject matter except for having a "continuous" ring band. Knutson, Mitchell or Rosenberger disclose a "continuous" ring band. Knutson discloses obvious variants that include a pop-top ring band that is continuous (figs. 3-5) or that is non-continuous (figs. 7-9 and 11). Mitchell discloses a "continuous" ring band to avoid abrasion of the consumer's fingers (col.1, lines 52-56). Rosenberger discloses a continuous ring band "as is well known in the art of ring making" and a "ring blank 12 as is well known in the art" (col. 2, lines 24-28). It would have been obvious to one having ordinary skill in the art to form the ring band of Brinn as continuous as such would have been an obvious variant as taught by Knutson, to avoid abrasions as taught by Mitchell, or is well known in the art as taught by Rosenberger.

4. Claim 7 is allowed.

5. Applicant's arguments filed October 12, 2005 have been fully considered but they are not persuasive.

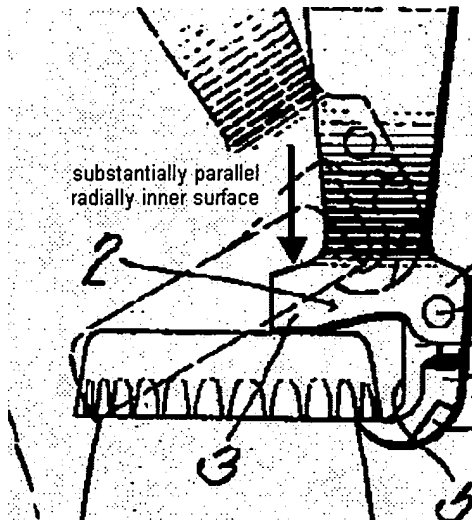
Applicant's arguments with respect to the "continuous ring band" have been considered but are moot in view of the new ground(s) of rejection.

The figures below disclose the "generally" parallel bottom engaging surface. Note the dotted line that extends along the surface.



The prong of Brinn is integral with the band palm section as broadly claimed by applicant. Elements being pivotally connected does not preclude the elements as being integral since "integral" is defined as being a part of a whole, belonging to a part, or made up of parts.

The bar of Brinn has a "substantially" parallel inner surface as shown below.



6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S. Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272 4485. The fax phone number for the organization where this application or proceeding is assigned is 571 273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin
Primary Examiner
Art Unit 3723

December 15, 2005